

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KAROL D. MAGISTRELLI,

Plaintiff,

Case No. 1:14-cv-657

v

HON. JANET T. NEFF

GARY C. MAGISTRELLI,

Defendant.

_____ /

OPINION AND ORDER

Plaintiff, proceeding pro se, removed this action to this Court on June 18, 2014. On the same day the matter was removed, Plaintiff applied to proceed *in forma pauperis* (Dkt 2) and moved for the “immediate disqualification of Judge Robert Holmes Bell and Judge Scoville” (Dkt 3). Plaintiff was granted leave to proceed *in forma pauperis* (Order, Dkt 23), and Plaintiff’s disqualification motion was rendered moot inasmuch as the case was assigned to the undersigned. Plaintiff also filed a plethora of other miscellaneous motions on June 18, 2014: motions for appointment of counsel (Dkts 10 & 31), motions for various forms of injunctive relief (Dkts 4-9, 11, 15, 24-28, 32) and motions that concerned the service and processing of the case (Dkts 12-14, 17). The Magistrate Judge first performed an initial screening of the matter pursuant to 28 U.S.C. § 1915(e)(2) and issued a Report and Recommendation, recommending that this Court dismiss this matter for failure to state any claim upon which relief may be granted. The matter is presently before the Court on Plaintiff’s objections to the Report and Recommendation (Dkt 43). Plaintiff has also since filed three more

motions that concern the processing of this case (Dkts 36-37 & 41). In accordance with 28 U.S.C. § 636(b)(1) and FED. R. CIV. P. 72(b)(3), the Court has performed de novo consideration of those portions of the Report and Recommendation to which objections have been made. For the reasons that follow, the Court denies the objections, denies Plaintiff's pending motions as moot, and issues this Opinion and Order.

The Magistrate Judge determined that Plaintiff's "rambling, stream-of-consciousness, mostly unintelligible complaint and related filings" against her ex-husband, sister, various judges, lawyers and law enforcement officers were both "legally and factually frivolous" under 28 U.S.C. § 1915(e)(2). The Magistrate Judge concluded that when measured against the pleading standards enunciated in *Twombly*¹ and *Iqbal*,² Plaintiff had failed to state any claim upon which this Court could grant relief.

Plaintiff's objections similarly provide nothing more than conclusions of alleged wrongdoing and do not demonstrate any error in the Magistrate Judge's determination. Indeed, the nature of Plaintiff's objections serves only to reinforce the propriety of the Magistrate Judge's recommendation. The Court therefore denies Plaintiff's objections and adopts the Report and Recommendation as the Opinion of the Court. Having adopted the Magistrate Judge's recommendation to dismiss this case, Plaintiff's motions for appointment of counsel are properly denied as moot. *See Lavado v. Keohane*, 992 F.2d 601, 606 (6th Cir. 1993) (appointment of counsel not justified where the Court finds the pro se litigant's complaint fails to state a claim).

¹*Bell Atl. Corp. v. Twombly*, 550 U.S. 544 (2007).

²*Ashcroft v. Iqbal*, 556 U.S. 662 (2009).

As the Court's decision terminates this action, the Court will also deny the remaining pending motions as moot and enter a corresponding Judgment. *See* FED. R. CIV. P. 58. For the above reasons and because Plaintiff is proceeding in forma pauperis, this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of the Judgment would not be taken in good faith. *See McGore v. Wigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007). Therefore:

IT IS HEREBY ORDERED that the Objections (Dkt 43) are DENIED and the Report and Recommendation (Dkt 34) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Complaint is DISMISSED pursuant to 28 U.S.C. § 1915(e)(2)(B) for the reasons stated in the Report and Recommendation.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion for the Immediate Disqualification and Substitution of Judge Robert Holmes Bell and Judge Scoville in Federal Court, Grnad Rapids, Michigan for Having Ex Parte Communications with Federal Judges" (Dkt 3) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion for Prospective Injunction and Declaratory Relief" (Dkt 4) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Motion to Return Karol to the Status Quo" (Dkt 5) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Motion for Magistrate Judge" (Dkt 7) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion for Writ of Mandamus (Dkt 8) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Vacate the Theft Charge and Warrant by the Holland, MI Police Department" (Dkt 9) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's motions to appoint counsel (Dkts 10 & 31) are DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Vacate Erroneous Charge and Warrant from Kalamazoo, MI Police Department" (Dkt 11) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Motion for Special Process Server" (Dkt 12) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Motion for leave to file proper memorandum" (Dkt 13) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Claim for Relief to Be Granted First Preliminary Version" (Dkt 14) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Vacate the Alleged Charge and Warrant for Criminal Trespass" (Dkt 15) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Motion to Have DOJ and FBI send out the summons, waivers and notifications" (Dkt 17) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Vacate the New Charge and Warrant Allegedly from Benton Harbor MI" (Dkt 24) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Vacate the Extortion Amount that the 19th Judicial Court called Child Support Arrears" (Dkt 25) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Apprehend Linda Slaktoski" (Dkt 26) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Apprehend Gary Magistrelli" (Dkt 27) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's combined "Motion for Immediate Prospective Injunction and Declaratory Relief Against Muskegon Police and the 60th District Court" and "Emergency Motion to Vacate Erroneous Charge and Warrant from Muskegon Police Department" (Dkt 28) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion "for order to Apprehend Mike Waller for the Following Bad Acts" (Dkt 32) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's Motion "for order for forensic accountant" (Dkt 36) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's combined Motion "for declaratory judgment against Grnada Rapids, MI Police Department, et al" and "for preliminary injunction" (Dkt 37) is DENIED as moot.

IT IS FURTHER ORDERED that Plaintiff's "Emergency Motion to Correct the Title of This Suit" (Dkt 41) is DENIED as moot.

IT IS FURTHER ORDERED that the Court certifies pursuant to 28 U.S.C § 1915(a) that an appeal of the Judgment would not be taken in good faith.

Date: January 7, 2015

/s/ Janet T. Neff
JANET T. NEFF
United States District Judge